

AUTHORIZING THE PARTITION OR SALE OF INHERITED  
INTERESTS IN ALLOTTED LANDS IN THE TULALIP  
RESERVATION, WASH.

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MAY 29, 1956.—Committed to the Committee of the Whole House on the State  
of the Union and ordered to be printed

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Mr. ENGLE, from the Committee on Interior and Insular Affairs,  
submitted the following

R E P O R T

[To accompany H. R. 11456]

The Committee on Interior and Insular Affairs, to whom was referred the bill (H. R. 11456) to authorize the partition or sale or inherited interests in allotted lands in the Tulalip Reservation, Wash., and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

The purpose of H. R. 11456, introduced by Congressman Westland at the request of the Tulalip tribes, is to authorize the partition or sale of inherited interests in allotted lands in the Tulalip Reservation, Wash., and for other purposes.

If enacted, H. R. 11456 will permit owners of individual interests in trust or restricted allotted land on the Tulalip Reservation on their own volition to commence in the State courts action to partition the land in kind or to sell the land in accordance with the laws of the State. This bill will give to Indian owners of undivided (fractionated heirship) interests in allotted land the same right that other citizens of the State have, that is, the right to ask a court of competent jurisdiction for a segregation of their undivided interests by partition, if practicable, and otherwise by sale. Under the laws of the State of Washington a sale is by public auction and any owner of an undivided interest will have the opportunity to purchase the interests of the other owners if he wishes to do so.

In keeping with existing law, the act of March 29, 1956 (70 Stat. 62), this bill, if enacted, will permit valid mortgages on trust or restricted land to be foreclosed without making the United States a party to the proceedings. In the case of the Tulalip owners of undivided

interests in the land, they will make applications in the State courts and each owner will represent his own separate interest. The conveyance by the State court will terminate the Federal trust or protection.

Section 2 authorizes the tribal board of directors to sell tribal lands with the consent of the Secretary of the Interior but with the provision that if the lands were originally acquired by any method except purchase the proceeds of the sale shall be deposited in the Treasury of the United States to the credit of the Tulalip tribes and expended only in a manner specified by Congress.

A major oil company is interested in constructing a refinery, with which the Indians are in full accord, on a site on the reservation which involves allotted lands, the titles to which are greatly complicated by fractionated heirship. Presently the lands are held under restricted patents and thus the signature of each heir is required to make a valid conveyance. Enactment of this legislation would facilitate the judicial sale of the site to the benefit of the Indians. The Indians propose to purchase the heirship lands piece by piece until the entire required acreage has been obtained and then resell the block to the oil company. The site is particularly desirable because it would provide access to deep water which the refinery would require.

Not only will favorable consideration of this bill assist in making this transaction possible, but it will commence the solution of the heirship problem on the entire reservation. There is reason to believe that other opportunities for commercial or industrial development may occur on the reservation, which is located on Puget Sound, 30 miles north of Seattle.

The favorable report of the Department of the Interior, dated May 29, 1956, is as follows:

DEPARTMENT OF THE INTERIOR,  
OFFICE OF THE SECRETARY,  
Washington, D. C., May 28, 1956.

HON. CLAIR ENGLE,  
*Chairman, Committee on Interior and Insular Affairs,  
House of Representatives, Washington 25, D. C.*

MY DEAR MR. ENGLE: Your committee has requested a report on H. R. 11456, a bill to authorize the partition or sale of inherited interests in allotted lands in the Tulalip Reservation, Wash., and for other purposes.

We recommend that the bill be enacted.

The bill permits any owner of an undivided interest in trust or restricted allotted land on the Tulalip Reservation, Wash., to commence in the State courts an action to partition the land in kind or to sell the land in accordance with the laws of the State. The authority granted by the bill is purely volunteer. The bill will give to Indian owners of undivided interests in allotted lands (that is, the owners of so-called fractionated heirship interests) the same right that other citizens of the State have, which is the right to ask the courts for a segregation of their undivided interests by partition if practicable, and otherwise by sale. Under the laws of Washington a sale is by public auction and any owner of an undivided interest will have the opportunity to purchase the interests of the other owners if he wishes to do so.

In order to avoid the technical difficulty of making the United States a party to the State court proceedings, the bill includes sub-

stantially the same language that is contained in the third sentence of the act of March 29, 1956 (70 Stat. 62), which permits valid mortgages on Indian trust or restricted land to be foreclosed without making the United States a party to the proceedings. The action will be handled in the State courts upon application of any of the owners of undivided interests in the land, and the various owners will represent their own separate interests. The partition or conveyance by the State court will terminate the Federal trust or restriction.

The bill also authorizes the tribal board of directors to sell tribal lands with the consent of the Secretary of the Interior. If the lands were originally acquired by any method other than by purchase, however, the proceeds of the sale may not be expended until specifically authorized by Congress. The reason for this provision is explained below.

This bill is sponsored by the Tulalip tribes and was introduced at their request. It was the subject of careful discussion between representatives of the tribes and representatives of this Department, and it was drafted to meet the following problem. A major oil company is interested in building a refinery on the reservation. The site tentatively selected involves allotted lands the title to which is vested by inheritance in a large number of joint owners, and there is no feasible method under present law for the company to acquire all of those interests. The lands are held under restricted patents, rather than trust patents, and the signature of each heir is required for a valid conveyance. Some of the heirs are not easily located, and a procedure for judicial sale is therefore needed.

The Tulalip tribes wish to help the oil company obtain a suitable site for the refinery. As the company does not wish to purchase individual tracts without assurance that it will be able to purchase the entire acreage needed, the tribes propose to purchase the heirship lands as they are put up for sale, hold them until the entire acreage has been acquired, and then resell the land in one tract to the oil company. The tribes therefore need authority to sell the tribal lands so acquired. In addition, the refinery will need access to deep water, and the tidelands that lie seaward from the allotted lands are owned by the tribes. Authority to sell these tribal tidelands, or easements thereon, is also needed.

The Tulalip tribes are organized under the Indian Reorganization Act, and occupy a reservation that was created by Executive order dated December 23, 1873, for the Snohomish and other tribes under the Point Elliott Treaty of January 22, 1855 (12 Stat. 927). Inasmuch as some Indians who are not members of the Tulalip tribes claim an interest in this reservation under the terms of the Point Elliott Treaty, the bill provides that the proceeds from the sale of any tribal lands that are subject to such treaty shall be held in the United States Treasury until the title issue has been resolved. The tribes may use the proceeds from the sale of other tribal lands, however, the title to which is not in controversy.

The Tulalip Reservation consists of 17,926 acres of trust or restricted land—2,660 acres are tribally owned, and 15,166 acres (in 137 tracts) are allotted to individual Indians. Of the 15,166 allotted acres, 15,108 acres are in a fractionated heirship status. The reservation contains several sites that are well suited for industrial or commercial development.

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About 725 persons live on or near the reservation. The services performed for them by this Department are relatively small, however, because the tribes have for years been managing their own affairs, and in 1954 the supervisory powers of the Secretary of the Interior with respect to certain functions under the tribal constitution and charter were terminated.

Although the tribes were motivated in asking for this legislation by the immediate problem described above, they recognize the need for a legislative solution to their heirship problem on the entire reservation, and they desire that the bill be applicable to the entire reservation in order that other opportunities for commercial or industrial development may be utilized as those opportunities occur.

We believe that the bill represents a desirable and worthwhile approach to a difficult problem that is tailored to meet the needs of this reservation, and we recommend its enactment.

The Bureau of the Budget has advised us that there is no objection to the submission of this report.

Sincerely yours,

WESLEY A. D'EWARD,  
*Assistant Secretary of the Interior.*

The Committee on Interior and Insular Affairs recommends enactment of H. R. 11456.

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